TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1931

No. 31

MAGNO SANTOVINCENZO, CONSUL OF THE KINGDOM OF ITALY AT NEW YORK, APPELLANT,

vs.

JAMES F. EGAN, PUBLIC ADMINISTRATOR, ETC., AND JOHN J. BENNETT, JR., ATTORNEY GENERAL OF THE STATE OF NEW YORK

APPEAL FROM THE SURROGATE'S COURT OF THE COUNTY OF NEW YORK, STATE OF NEW YORK

FILED MARCH 10, 1931

(35,709)

(35,709)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1931

No. 31

MAGNO SANTOVINCENZO, CONSUL OF THE KINGDOM OF ITALY AT NEW YORK, APPELLANT,

vs.

JAMES F. EGAN, PUBLIC ADMINISTRATOR, ETC., AND JOHN J. BENNETT, JR., ATTORNEY GENERAL OF THE STATE OF NEW YORK

APPEAL FROM THE SURROGATE'S COURT OF THE COUNTY OF NEW YORK, STATE OF NEW YORK

INDEX

	Original	Print
Record on appeal to supreme court of New York, appellate division	1	1
Statement under rule 234	1	1
Notice of appeal	2	2
Decree appealed from	4	3
Notice of appearance by attorney general	7	5
Answer of consul general of Italy	9	6
Petition to account	11	7
Account of proceedings	14	9
Schedule "A"—Statement of property	17	11
"C"—Statement of claims paid	18	11
"D"—Statement as to claims	18	11
"G"—Statement of persons entitled to share of estate	19	12
Affidavit to account	20	12

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MAY 14, 1931

	Original	Print
Citation.....(omitted in printing)..	21	
Case	23	13
Testimony of Laideslie Hak.....	24	14
Testimony of Guiseppe Speranzo.....	27	17
Opinion, Foley, surrogate.....	33	22
Stipulation settling case.....	37	24
Order settling case.....	37	25
Stipulation waiving certification.....	38	25
Order filing record in appellate division.....	38	25
Order of affirmance, appellate division.....	39	26
Order on remittitur.....	41	27
Order of appellate division denying leave to appeal to court of appeals.....	43	28
Order of court of appeals denying leave to appeal to court of appeals.....	45	28
Order on remittitur.....	46	29
Order on remittitur.....	48	29
Order of substitution.....	50	30
Petition for appeal.....	51	31
Assignments of error and prayer for reversal.....	55	33
Order allowing appeal.....	57	34
Bond on appeal.....(omitted in printing)..	59	
Citation and service.....(omitted in printing)..	66	
Stipulation re transcript of record.....	68	35
Clerk's certificate.....(omitted in printing)..	70	
Statement of points to be relied upon and designation to print entire record.....	72	36

[fol. a]

NEW YORK SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT

In the Matter of the Judicial Settlement of the Account of Proceedings of the PUBLIC ADMINISTRATOR OF THE COUNTY OF NEW YORK, Administrator of the Goods, Chattels, and Credits of Antonio Comincio, Deceased

Case on Appeal

Ralph Atkins, Attorney for Magno Santovincenzo, Consul of the Kingdom of Italy at New York, Appellant, 95 Liberty Street, New York, N. Y.

Hamilton Ward, Attorney General of the State of New York, The Capitol, Albany, N. Y.

N. Joseph Slicklen, Attorney for Public Administrator of New York County, 299 Broadway, New York, N. Y.

[fol. 1] IN SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

In the Matter of the Judicial Settlement of the Account of Proceedings of the PUBLIC ADMINISTRATOR OF THE COUNTY OF NEW YORK, Administrator of the Goods, Chattels, and Credits of Antonio Comincio, Deceased

STATEMENT UNDER RULE 234

This is an accounting proceeding instituted by the Public Administrator of New York County, as Administrator of the estate of Antonio Comincio, deceased.

The petition and account were filed in the Surrogates' Court of New York County on the 20th day of February, 1929.

The answer of the Acting Consul General of Italy to said petition was filed on the 9th day of April, 1929.

N. Joseph Slicklen, Esq., appeared as attorney for James F. Egan, Public Administrator of New York County, and Ralph Atkins, Esq., as attorney for Magno Santovincenzo,

Acting Consul General of Italy at New York. Hon. Hamil-
[fol. 2] ton Ward, Attorney General of the State of New York, also appeared in the proceeding.

The names of the original parties are as set forth herein. There has been no change of parties or attorneys since the institution of this proceeding.

IN SURROGATES' COURT OF NEW YORK COUNTY.

In the Matter of the Judicial Settlement of the Account of Proceedings of the PUBLIC ADMINISTRATOR OF THE COUNTY OF NEW YORK, Administrator of the Goods, Chattels, and Credits of Antonio Comincio, Deceased

NOTICE OF APPEAL

SIRS: Please take notice that Magno Santovincenzo, Consul of the Kingdom of Italy at New York, hereby appeals on the law and on the facts to the Appellate Division of the Supreme Court, for the First Judicial Department, from the decree made and entered in the above-entitled matter by the Honorable James A. Foley, Surrogate, on the 3rd day of July, 1929, settling the account of the Public Administrator of the County of New York, as Administrator, [fol. 3] etc., of the estate of the above-named deceased and making distribution, and he hereby appeals from each and every part of said decree as well as upon the facts, and will ask the Court to exercise its powers under Section 309 of the Surrogates' Court Act.

Dated N. Y., August 1, 1929.

Yours, &c., Ralph Atkins, Attorney for Magno Santovincenzo, Consul of the Kingdom of Italy at New York, Appellant, No. 95 Liberty Street, Borough of Manhattan, City of New York.

To Hon. Hamilton Ward, Atty. General of the State of New York, 51 Chambers Street, New York City; Hon. Martin G. McCue, Clerk of the Surrogates' Court, County of New York; N. Joseph Slicklen, Esq., Attorney for Public Administrator of New York County.

[fol. 4] In Surrogates' Court of New York County

A 928—1925

In the Matter of the Judicial Settlement of the Account of Proceedings of the Public Administrator of the County of New York, Administrator of the Goods, Chattels, and Credits of Antonio Comincio, Deceased

Decree on Accounting

Decree Appealed From—July 3, 1929

The Public Administrator of the County of New York as Administrator of the goods, chattels and credits of Antonio Comincio deceased, who at the time of his death was a resident of 355 East 76th Street, N. Y. City, having heretofore filed a petition, verified the 20th day of February, 1929, in which application was made to the Surrogate of the County of New York, for a judicial settlement of his account of such administrator and a citation having been thereupon issued, pursuant to statute, directed to all persons interested in the estate or fund of the said deceased, citing them to show cause before the said Surrogate, at his office in the County of New York, on the 9th day of April, [fol. 5] 1929, at ten-thirty o'clock in the forenoon of that day, why the account of said administrator should not be judicially settled, and the said citation having been returned with proof of the due service thereof on Attorney General of the State of New York, Consul General of Italy, and the said Administrator having appeared on the return day of said citation by his attorney, N. Joseph Slicklen, Attorney General of the State of New York, and Ralph Atkins also appeared herein, and the said Administrator having rendered his account under oath, before the said Surrogate; and the said account having been filed and objection thereto having been made or filed by the Consul General of Italy, and the same having come on to be heard before the Surrogate on the 6th day of June, 1929, and the Surrogate having found that the domicile of the decedent was in New York City, and said objections having been overruled, and the said matter having been duly adjourned to this day, the said Surrogate, after having examined the said